

**FILED**

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CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	<u>SUPERSEDING INDICTMENT</u>
	)	
Plaintiff,	)	
	)	JUDGE DONALD C. NUGENT
	)	
v.	)	CASE NO.: 1:15CR146
	)	
ALLEN D. MILES,	)	Title 18, United States Code,
	)	Sections 2, 1028A, 1343 and
Defendant.	)	1349

The Grand Jury charges:

**General Allegations**

At all times relevant to this Indictment, unless otherwise specified:

1. Zinara M. Highsmith ("Highsmith") was in the business of preparing income tax returns. On or about February 26, 2010, Highsmith formed WE XL LLC in the state of Georgia for the purpose of operating her tax preparation business. Highsmith and WE XL LLC were located in the Atlanta, Georgia area.

2. ALLEN D. MILES ("MILES") was a traveling minister living in the state of Arkansas. MILES recruited tax claimants by inducing other ministers or church leaders ("ministers") in various states, including Ohio, to solicit members of their congregations and

others to apply for benefits under the so-called government stimulus program. MILES gathered the claimants' "personal identification information," including name, address, Social Security number, and date of birth, and provided that information to Highsmith.

3. Ve Sayavong ("Sayavong") began working for Highsmith's tax return preparation business in or around 2011. Among other things, Sayavong prepared tax returns, hired, trained and supervised other return preparers and calculated and distributed payroll.

4. Federal tax law for the year 2010 provided for the following refundable tax credits that could be claimed by qualifying persons on their 2010 federal income tax returns:

a. The American Opportunity Credit (AOC). The AOC was an education tax credit of up to \$2,500 on the amount of qualified education expenses paid for a student to any college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S. Department of Education.

b. The Making Work Pay (MWP) Credit. The MWP was a tax credit for individuals who earned income from work and whose adjusted gross income was less than \$95,000.00. The credit was 6.2% of the income earned up to a maximum of \$400.00.

c. The Earned Income Credit (EIC). The EIC was a tax credit for low income working persons. In addition to other requirements, individuals without qualifying children had to be between the ages of 25 and 65, not be claimed as a dependent on another return, and have received less than \$13,460 of earned income to qualify.

5. Internal Revenue Service (IRS) procedures allowed a taxpayer to request payment of a refund by direct deposit, split into as many as three different financial accounts (including debit card accounts). To request split deposits of a refund, the taxpayer listed the account

number and routing number for each deposit on Form 8888 attached to the taxpayer's income tax return.

6. Turbo Tax was a tax software program available for use by taxpayers or professional tax preparers to prepare and electronically file income tax returns. The Turbo Tax software enabled a taxpayer to receive a direct deposit refund payment on a Turbo Tax debit card mailed to the taxpayer's address.

#### **The Scheme to Defraud and Obtain Money**

7. From approximately March 21, 2011, through July 28, 2011, the exact dates unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendants ALLEN D. MILES, Ve Sayavong (previously charged), Zinara M. Highsmith (previously charged) and others devised and intended to devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses and representations and, for the purpose of executing the scheme, caused wire communications to be transmitted in interstate commerce. Pursuant to this scheme, false claims for income tax refunds were filed with the IRS in the names of various persons, as described in the following paragraphs.

8. The scheme involved the filing of false federal income tax returns in the names of low income persons ("claimants") that generated tax refunds split between the claimants and participants in the scheme. Claimants were induced to provide their personal identification information to participants in the scheme upon the false representation that their information would be used to apply for payments on the claimants' behalf under a purported, but nonexistent, government stimulus program. Instead, the scheme participants used the personal identification information to prepare and electronically file false income tax returns in the claimants' names by reporting fabricated amounts of income and false tax credits, giving rise to false claims for tax

refunds. Portions of the refunds were direct deposited into bank accounts controlled by the scheme participants.

9. MILES' role in the scheme was to recruit and obtain personal identification information from claimants and to provide that information to Highsmith, who was responsible for the preparation of the false returns.

10. MILES recruited claimants in large part by inducing other ministers or church leaders ("ministers") in various states, including Ohio, to solicit members of their congregations and others to apply for benefits under the so-called government stimulus program. As word of the purported stimulus program grew, congregants or others learning of the purported program also obtained and forwarded personal identification information of other persons to MILES. Some of the claimants were residents of northeast Ohio who provided their personal identification information to a pastor located in Canton, Ohio ("the Canton Pastor") and to at least one other person also located in northeast Ohio (a relative of the Canton Pastor), who, in turn, forwarded the information to MILES, generally by emails containing spreadsheets with the information. The Canton Pastor used an email account of a family member to send the emails from Canton to MILES in Arkansas.

11. As instructed by MILES, the pastors and other recruiters generally told congregants and other claimants that to be eligible a claimant could not have filed an income tax return for 2010, could not be claimed as a dependent on another person's return, could not owe any back taxes, and could not have any other debts to the federal government. The claimants were told that they could receive their "stimulus" payment either by direct deposit to a bank account or on a debit card. No income or other information about the claimants was requested

by MILES or obtained from the claimants. MILES told the pastors to request a "donation" of \$50 from each claimant.

12. As instructed by MILES, the pastors and other recruiters sent emails to MILES with the following personal identification information and other information for claimants: name, Social Security number, address, date of birth, phone number, and either a statement that the claimant wanted a debit card or the account number and routing number for a financial account for a direct deposit.

13. MILES, in turn, forwarded the claimants' personal identification information to Highsmith in the Atlanta area to use for preparing false tax returns. Highsmith never had any contact with a claimant or with any of the other pastors or other persons used by MILES to recruit or enlist claimants. Highsmith also never had any information as to whether any claimant had any employment, income, or education expenses.

14. Highsmith arranged for her associates, including Sayavong, to prepare false income tax returns in the claimants' names using their personal identification information received from MILES and to electronically file the returns with the IRS. Highsmith instructed Sayavong and her associates how to prepare the false income tax returns using Turbo Tax software, which they did as follows:

a. All of the returns were on IRS Form 1040A, using a "Single" filing status, and listing no dependents.

b. The returns purported to have been prepared by the claimants, with the paid preparer section left blank.

c. The returns reported falsified occupations and amounts of wage income, with no corresponding withholding or supporting W-2 forms, in a range of between approximately \$6,450 and \$7,700.

d. Based on that income, almost all of the returns claimed an AOC Education Credit of \$1,000 (with only one return not claiming the credit and a few claiming \$990 to \$999).

e. All of the returns claimed a Making Work Pay Credit. The vast majority claimed the maximum \$400, with a few claiming \$150.

f. For claimants between the ages of 25 and 65, the returns generally claimed an Earned Income Credit of \$475.

g. The returns included a Form 8888, designating three different financial accounts for the direct deposit split of the refunds. All of the returns requested that \$125 be direct-deposited into a bank account controlled by MILES and that \$275 be deposited into a bank account controlled by Highsmith, from which Highsmith paid a portion to Sayavong and her associates. The balances of the refunds were to be paid to the claimants, generally on Turbo Tax cards mailed to them.

h. In some instances, a Turbo Tax card could not be issued, in which case the claimant's portion of the refund was deposited into MILES's account. In many such instances, MILES then sent a cashier's check to the claimant, typically for just under the amount requested to be placed on the Turbo Tax card.

15. In summary, the large majority of the tax returns contained refund claims as follows:

<b>Credits Claimed</b>	<b>Claimant age eligible for EIC (age 25 - 65)</b>	<b>Claimant not age eligible for EIC</b>
AOC Education Credit	\$1,000	\$1,000
Making Work Pay Credit	\$400	\$400
Earned Income Credit	\$457	--
<b>Total Refund Claimed</b>	<b>\$1,857</b>	<b>\$1,400</b>
<b>Split of the Refund</b>		
Highsmith	\$275	\$275
MILES	\$125	\$125
Claimant	\$1,457	\$1,000

16. Pursuant to the scheme, MILES, Highsmith and Sayavong caused the interstate wire communications described in paragraphs 25 and 26 below to be transmitted.

17. In total, approximately 2,750 false income tax returns were filed using personal identification information provided by MILES to Highsmith and Sayavong pursuant to the scheme to defraud and obtain money, containing false refund claims totaling approximately \$4.8 million.

18. Based on those false claims, the IRS issued refunds totaling approximately \$3.9 million. Defendant MILES received approximately \$240,000 in "commissions" for his role in the scheme. Defendant Sayavong received approximately \$178,000 in proceeds from the scheme.

## **STATUTORY CHARGES**

### COUNT 1

(Conspiracy to Commit Wire Fraud, 18 U.S.C. § 1349)

The Grand Jury further charges:

19. The allegations in paragraphs 1 – 18 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

20. From approximately March 21, 2011, through July 28, 2011, the exact dates unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendants ALLEN D. MILES, Ve Sayavong (previously charged), Zinara M. Highsmith (previously charged), and others both known and unknown to the Grand Jury, did knowingly and intentionally conspire, combine, confederate, and agree together and with each other to devise and intend to devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause the transmission by means of wire communications in interstate commerce any writing, sign, signal, and picture, in violation of Title 18, United States Code, Section 1343 (Wire Fraud).

21. The object of the conspiracy was to file false claims for income tax refunds in the names of various other persons in order for the conspirators to obtain portions of the refunds for their personal use and enrichment.

### **Manner and Means of Carrying Out the Conspiracy**

22. The manner and means of carrying out of the conspiracy included the conduct alleged as the Scheme to Defraud and Obtain Money in paragraphs 8 – 18 of the General Allegations.

In violation of Title 18, United States Code, Section 1349.



COUNTS 2-11

(Wire Fraud, 18 U.S.C. § 1343 and 2)

The Grand Jury further charges:

23. The allegations in paragraphs 1 – 18 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

24. From approximately March 21, 2011, through July 28, 2011, the exact dates unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, Defendants ALLEN D. MILES, Ve Sayavong (previously charged), Zinara M. Highsmith (previously charged), and others, devised and intended to devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses and representations, by which Highsmith and others filed and caused to be filed false claims for income tax refunds in the names of various persons, to wit, the Scheme to Defraud and Obtain Money alleged in paragraphs 8 – 18 of the General Allegations.

**Use of the Wires**

25. On various dates in the Northern District of Ohio, and elsewhere, Defendant ALLEN D. MILES and Ve Sayavong, for the purpose of executing the scheme and artifice, caused to be transmitted, by means of wire communications in interstate commerce, writings, signs, signals, pictures and sounds, to wit: the following emails from the Canton Pastor, in Canton, Ohio, using his family member's email address "rolo\*\*\*\*@yahoo.com," to MILES, in Arkansas, at email address "adm3\*\*\*\*@yahoo.com," with attached Excel spreadsheets containing personal identification information of claimants that MILES subsequently forwarded to Highsmith:

Count	Approximate date and time (Eastern Daylight Time)	Description
2	March 23, 2011, 9:55 pm	Email with the subject line "3 23 11 stimulus," containing an Excel spreadsheet titled "3 23 11 stimulus.xls"
3	March 25, 2011, 12:05 am	Email with the subject line "3 24 11 stimulus," containing an Excel spreadsheet titled "3 24 11 stimulus.xls"
4	March 25, 2011, 11:03 pm	Email with the subject line "3 25 11 stimulus," containing an Excel spreadsheet titled "3 25 11 stimulus.xls"
5	March 28, 2011, 11:55 pm	Email with the subject line "3 28 11 stimulus," containing an Excel spreadsheet titled "3 28 11 stimulus.xls"
6	March 30, 2011, 12:18 pm	Email with the subject line "3 30 11 stimulus," containing an Excel spreadsheet titled "3 28 11 stimulus.xls"

26. On various dates in the Northern District of Ohio, elsewhere, Defendant ALLEN D. MILES and Ve Sayavong, for the purpose of executing the scheme and artifice, caused to be transmitted, by means of wire communications in interstate commerce, writings, signs, signals, pictures and sounds, to wit: the following emails from the Canton Pastor's relative, in Canton, Ohio, using his email address "l.d.\*\*\*\*@att.net," to MILES, in Arkansas, at email address "adm3\*\*\*\*@yahoo.com," containing personal identification information of claimants that MILES subsequently forwarded to Highsmith:

Count	Approximate date and time (Eastern Standard or Daylight Time)	Description
7	March 11, 2011, 12:02 pm	Email with the subject line "New Applicant," containing personal identification information of one person with initials JL
8	March 11, 2011, 2:58 pm	Email with the subject line "Additional stimulus clients," containing personal identification information of one person with initials EP
9	March 23, 2011, 5:07 pm	Email with the subject line "New Stimulus Client," containing personal identification information of one person with initials RDS

Count	Approximate date and time (Eastern Standard or Daylight Time)	Description
10	April 1, 2011, 2:48 pm	Email with the subject line "New Stimulus Applicant," containing personal identification information of one person with initials SLB, and asking if it is wrong to assume that new referrals can be submitted up to April 15th
11	April 8, 2011, 8:04 am	Email with the subject line "new stimulus applicant," containing personal identification information of one person with initials CB

All in violation of Title 18, Sections 2 and 1343, United States Code.

COUNT 12

(Aggravated Identity Theft, 18 U.S.C. §§ 1028A(a)(1) and 2)

27. On or about April 4, 2011, in the Northern District of Ohio, Eastern Division, and elsewhere, ALLEN D. MILES, during and in relation to felony violation(s) of Title 18 United States Code, Section 1343 (Wire Fraud), knowingly transferred, possessed and used without lawful authority a means of identification of C.C., and aided and abetted the transfer, possession and use without lawful authority of a means of identification of C.C. (a real person known to the Grand Jury), knowing that the means of identification belonged to another person.

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

COUNT 13

(Aggravated Identity Theft, 18 U.S.C. §§ 1028A(a)(1) and 2)

28. On or about April 1, 2011, in the Northern District of Ohio, Eastern Division, and elsewhere, ALLEN D. MILES, during and in relation to felony violation(s) of Title 18 United States Code, Section 1343 (Wire Fraud), knowingly transferred, possessed and used without lawful authority a means of identification of C.R., and aided and abetted the transfer, possession and use without lawful authority of a means of identification of C.R. (a real person known to the Grand Jury), knowing that the means of identification belonged to another person.

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

COUNT 14

(Aggravated Identity Theft, 18 U.S.C. §§ 1028A(a)(1) and 2)

29. On or about April 1, 2011, in the Northern District of Ohio, Eastern Division, and elsewhere, ALLEN D. MILES, during and in relation to felony violation(s) of Title 18 United States Code, Section 1343 (Wire Fraud), knowingly transferred, possessed and used without lawful authority a means of identification of P.G., and aided and abetted the transfer, possession and use without lawful authority of a means of identification of P.G. (a real person known to the Grand Jury), knowing that the means of identification belonged to another person.

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

A TRUE BILL.

Original document -- Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.